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4 **UNITED STATES DISTRICT COURT**  
5 **DISTRICT OF NEVADA**  
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7 ESCO CORPORATION, et al., )  
8 Plaintiff(s), ) Case No. 2:12-cv-01545-RCJ-NJK  
9 vs. ) ORDER  
10 CASHMAN EQUIPMENT COMPANY, et al., )  
11 Defendant(s). )  
12

13 Before the Court is the parties' Stipulated Protective Order (Docket No. 73-2), which the  
14 Court approved to facilitate discovery in this case. This order reminds counsel that there is a  
15 presumption of public access to judicial files and records. A party seeking to file a confidential  
16 document under seal must file a motion to seal and must comply with the Ninth Circuit's directives  
17 in *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006).

18 The Court has adopted electronic filing procedures, and with a few exceptions not applicable  
19 here, the Clerk of the Court no longer maintains paper records. Special Order 109 requires the Clerk  
20 of the Court to maintain the official files for all cases filed on or after November 7, 2005, in  
21 electronic form. The electronic record constitutes the official record of the court. Attorneys must file  
22 documents under seal using the Court's electronic filing procedures. *See* LR 10-5(b). That rule  
23 provides:

24 Unless otherwise permitted by statute, rule or prior Court order, papers filed  
25 with the Court under seal shall be accompanied by a motion for leave to file  
26 those documents under seal, and shall be filed in accordance with the Court's  
27 electronic filing procedures. If papers are filed under seal pursuant to prior  
28 Court order, the papers shall bear the following notation on the first page,  
directly under the case number: "FILED UNDER SEAL PURSUANT TO  
COURT ORDER DATED \_\_\_\_\_. All papers filed under seal will  
remain sealed until such time as the Court may deny the motion to seal or  
enter an order to unseal them, or the documents are unsealed pursuant to  
Local Rule.

1 *Id.* Documents filed under seal are not accessible to the public.

2 The Court has approved the parties' blanket protective order to facilitate their discovery  
3 exchanges. But the parties have not shown, and the Court has not found, that any specific  
4 documents are secret or confidential. The parties have not provided specific facts supported by  
5 declarations or concrete examples to establish that a protective order is required to protect any  
6 specific trade secret or other confidential information pursuant to Rule 26(c) or that disclosure would  
7 cause an identifiable and significant harm. The Ninth Circuit has held that there is a presumption of  
8 public access to judicial files and records and that parties seeking to maintain the confidentiality of  
9 documents attached to nondispositive motions must show good cause exists to overcome the  
10 presumption of public access. *See Kamakana* 447 F.3d at 1179. Parties seeking to maintain the  
11 secrecy of documents attached to dispositive motions must show compelling reasons sufficient to  
12 overcome the presumption of public access. *Id.* at 1180.

13 If the sole ground for a motion to seal is that the opposing party (or non-party) has designated  
14 a document as confidential, the opposing party (or non-party) shall file a declaration establishing  
15 good cause for the sealing along with a proposed order, or shall withdraw the designation. The  
16 declaration shall be filed within seven days of service on the opposing party (or non-party) of the  
17 request for a sealing order. If the declaration is not filed as required, the Court may order the  
18 document filed in the public record.

19 **IT IS ORDERED** that the parties shall comply with the requirements of LR 10-5(b), the  
20 Ninth Circuit's decision in *Kamakana*, 447 F.3d 1172, and the procedures outlined above, with  
21 respect to any documents filed under seal.

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23 DATED: June 25, 2013

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26 NANCY J. KOPPE  
United States Magistrate Judge  
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